

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 14235US02

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| In the Application of:    | ) |  |
|                           | ) |  |
| Ronald L. Mahany et al.   | ) |  |
|                           | ) | CERTIFICATE OF ELECTRONIC FILING               |
| Serial No. 10/736,068     | ) |  |
|                           | ) | I hereby certify that this correspondence is   |
| Filed: December 15, 2003  | ) | being sent via electronic filing to the United |
|                           | ) | States Patent and Trademark Office on this     |
| For: HIERARCHICAL         | ) | date:  |
| COMMUNICATION SYSTEM      | ) |  |
| PROVIDING INTELLIGENT     | ) | <u>October 15, 2008</u>                        |
| DATA, PROGRAM AND         | ) |  |
| PROCESSING MIGRATION      | ) |  |
|                           | ) | <u>/Philip Henry Sheridan/</u>                 |
| Examiner: DOAN, PHUOC HUU | ) | Philip Henry Sheridan                          |
|                           | ) | Reg. No. 59,918                                |
| Group Art Unit: 2616      | ) |  |
|                           | ) |  |
| Confirmation No. 4277     | ) |  |
|                           | ) |  |

**LITIGATION STATEMENT PURSUANT TO MPEP § 2001.06(C) and SUPPLEMENTAL  
INFORMATION DISCLOSURE STATEMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In accordance with MPEP § 2001.06(c), the Applicants would like to bring to the attention of the U.S. Patent and Trademark Office that the subject matter currently being claimed in the present application may be related to at least one of the patents currently asserted by owner of record of the present application, Broadcom Corporation, in a patent infringement action between Broadcom and Qualcomm, Inc., in the Central District of California, Southern Division, Case No. SACV-05-467-JVS. A jury found U.S. Patent No. 5,657,317 ("the '317 patent") valid and infringed by Qualcomm on May 29, 2007. The court entered an order permanently enjoining Qualcomm from infringing the '317 patent on December 31, 2007. The court entered an amended and restated permanent injunction order on February 5, 2008. The court entered a second amended and restated permanent injunction order on March 13, 2008. On March 24, 2008, the court entered judgment pursuant to Federal Rule of Civil Procedure 54(b). The above-mentioned amended and restated permanent injunction order, second amended and restated permanent injunction order and Rule 54(b) judgment were appealed to the U.S. Court of Appeals for the Federal Circuit in appeal numbers 2008-1199, 2008-1271 and 2008-1272. **On**

**September 24, 2008, the U.S. Court of Appeals for the Federal Circuit affirmed the judgment of infringement and validity of the '317 patent and the issuing of the permanent injunction.** Specifically, the Court of Appeals for the Federal Circuit stated that "the district court did not err in construing the claims of the '317 patent, and [ ] substantial evidence supports the jury's determinations of infringement and validity of the '317 [ ] patent[ ]."

Moreover, the Court of Appeals for the Federal Circuit specifically affirmed the finding of the district court that Broadcom had "presented an unrebutted picture of Mahany's conception at least as early as September 1989 based on Mahany's notebooks and constructive reductions to practice in May 1993." The Court also rejected the arguments Qualcomm made regarding the Burson reference, the Court stating "we affirm the jury's verdict that the Burson reference does not invalidate the '317 patent as an anticipatory reference."

Further, the Applicant submits herewith a Supplemental Information Disclosure Statement, including form PTO/SB/08 and a copy of the Court of Appeals for the Federal Circuit's decision to be placed in the file. One (1) reference is attached in one electronic submission for the Supplemental Information Disclosure Statement.

This submission is in no way intended as an admission that the submitted reference constitutes prior art under any subsection of 35 U.S.C. §102 or §103. Applicant expressly retains the right to argue that the cited reference is not indeed prior art or to take any actions necessary to remove the cited reference from the available prior art.

The Commissioner is hereby authorized to charge any fees which are presently required, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Date: October 15, 2008

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